

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

PATRICK GATHIGI KARANJA,
Plaintiff,
v.
ASSOCIATE WARDEN, *et al.*,
Defendants.

No. C09-5391 RBL/KLS

**REPORT AND RECOMMENDATION
NOTED FOR: December 18, 2009**

This civil rights action has been referred to the undersigned United States Magistrate Judge Karen L. Strombom pursuant to Title 28 U.S.C. § 636(b)(1) and Local MJR 3 and 4.

It has been more than sixty days since the Court's latest mailings to Plaintiff were returned and the Court does not have a current address for the Plaintiff. Therefore, the undersigned recommends that the Court dismiss this action as Plaintiff appears to have abandoned his case.

DISCUSSION

On July 14, 2009, the court granted Plaintiff's application for leave to proceed *in forma pauperis* and filed his complaint. Dkts. 5 and 6. On August 6, 2009, the court ordered Plaintiff to amend or show cause why his complaint should not be dismissed for failure to state a claim. Dkt. 7. Plaintiff was directed to respond to the court's Order on or before August 28, 2008. *Id.* The court's Order to Show Cause was returned, marked "undeliverable" and "released," Dkt. 9.

1 Plaintiff has not notified the Court of his current address.

2 Local Rule 41(b)(2) states:

3 A party proceeding pro se shall keep the court and opposing parties advised as to
4 his current address. If mail directed to a pro-se plaintiff by the clerk is returned
5 by the post office, and if such plaintiff fails to notify the court and opposing
6 parties within sixty days thereafter of his current address, the court may dismiss
the action without prejudice for failure to prosecute.

7 This action has existed more than sixty days without an address for the Plaintiff.

8 Dismissal without prejudice for failure to prosecute is appropriate. Accordingly, the undersigned
9 recommends **DISMISSAL WITHOUT PREJUDICE** for failure to prosecute pursuant to Local
10 Rule 41(b)(2).

11 CONCLUSION

12 The Court should dismiss this action without prejudice as Plaintiff has left no forwarding
13 address and appears to have abandoned the case.

14 Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil
15 Procedure, the parties shall have ten (10) days from service of this Report to file written
16 objections. *See also* Fed. R.Civ.P. 6. Failure to file objections will result in a waiver of those
17 objections for purposes of appeal. *Thomas v. Arn*, 474 U.S. 140 (1985). Accommodating the
18 time limit imposed by Rule 72(b), the Clerk is directed to set the matter for consideration on
19 **December 18, 2009**, as noted in the caption.

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21 DATED this 24th day of November, 2009.
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25 Karen L. Strombom
United States Magistrate Judge
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